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PORTFOLIO COMMITTEE NO. 4

Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

Report 50

August 2021

4



Portfolio Committee No. 4 – Industry

**Petroleum (Onshore)
Amendment (Cancellation of
Zombie Petroleum
Exploration Licences) Bill
2021**

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Terms of reference

That:

- (a) the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 be referred to Portfolio Committee No. 4 – Industry for inquiry and report,
- (b) the bill be referred to the committee at the conclusion of the mover's second reading speech,
- (c) the committee report by 12 August 2021.

The terms of reference were referred to the committee by the Legislative Council on 11 May 2021.¹

¹ *Minutes*, NSW Legislative Council, 11 May 2021, p 2148.

Committee details

Committee members

The Hon Mark Banasiak MLC	Shooters Fishers and Farmers Party	<i>Chair</i>
Ms Abigail Boyd MLC*	The Greens	
The Hon Sam Farrow MLC	The Nationals	
Mr Justin Field MLC**	Independent	
The Hon Taylor Martin MLC***	Liberal Party	
The Hon Peter Poulos MLC****	Liberal Party	
The Hon Peter Primrose MLC	Australian Labor Party	
The Hon Mick Veitch MLC	Australian Labor Party	

* Ms Abigail Boyd MLC is a participating member for the duration of the inquiry.

** Mr Justin Field MLC substituted for Ms Emma Hurst MLC from 14 May 2021 for the duration of the inquiry.

*** The Hon Taylor Martin MLC replaced the Hon Catherine Cusack MLC as a member of the committee on 20 May 2021.

**** The Hon Peter Poulos MLC substituted for the Hon Lou Amato MLC from 13 May 2021 for the duration of the inquiry and then replaced him as a member of the committee on 20 May 2021.

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Chair's foreword

On 11 May 2021, the Legislative Council referred the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 to Portfolio Committee No. 4 – Industry for inquiry and report.

The Bill seeks to amend the *Petroleum (Onshore) Act 1991* to provide that a petroleum exploration licence expires at the end of its term unless renewed, and to cancel petroleum exploration licences that remain in force because of a pending renewal application – also known as zombie petroleum exploration licences.

At the time the Bill was introduced in Legislative Council, there were 12 zombie petroleum exploration licences in North West New South Wales awaiting action from the government. Some of these licences had been lying dormant for up to 10 years. The committee heard from community groups who supported the bill, that these licences lying dormant in their region created uncertainty over the future of their land, farms and agricultural businesses. However, we also heard from stakeholders from the mining sector that a degree of certainty is required for licence holders while waiting on their renewal applications to be assessed.

About three weeks before the committee was due to report, the NSW Government released the Future of Gas Statement, which reduces the land covered by petroleum exploration licences by 77 per cent. This effectively means that gas production is ruled out for 8 of the 12 zombie petroleum exploration licences, with the remaining 4 licences reduced in size to support the Narrabri gas project.

The committee welcomes this development as it provides stakeholders and communities with the certainty they have been seeking for years. However, we recognise that the government's delay in coming to this decision left affected communities in limbo over many years. Going forward, we believe that the government should ensure that petroleum exploration licences, including their renewal applications, are dealt with efficiently and transparently.

On behalf of the committee, I would like to thank all stakeholders who participated in the inquiry, particularly community members who have been seeking certainty on this matter for many years. I would also like to thank my committee colleagues for their contributions to the inquiry, as well as the secretariat and Hansard staff for their assistance.



The Hon Mark Banasiak MLC
Committee Chair

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 11 May 2021.

The committee received 28 submissions and 128 responses to its online questionnaire.

The committee held a combined public hearing via videoconference for inquiries into Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 and the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, online questionnaire report and answers to questions on notice.

Chapter 1 Background

This chapter sets out the context for the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021. It begins with a brief summary of the bill itself before moving onto a discussion on the process for issuing and renewing petroleum exploration licences.

Referral and purpose of the bill

- 1.1** The Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 was introduced in the Legislative Council on 5 May 2021 by Independent member, Mr Justin Field MLC.² The House later resolved to refer the bill to Portfolio Committee No. 4 – Industry for inquiry and report.³
- 1.2** The bill seeks to amend the *Petroleum (Onshore) Act 1991* to:
- provide that a petroleum exploration licence expires at the end of its term unless renewed
 - cancel petroleum exploration licences that remain in force because of a pending renewal application.⁴
- 1.3** In his second reading speech, Mr Field highlighted that there are currently 12 expired petroleum exploration licences 'that have been sitting dormant over about 55,000 hectares of land between the Upper Hunter and the Queensland border'.⁵ In this report, these licences are referred to as zombie petroleum exploration licences (PELs).
- 1.4** Mr Field explained that these licences are dormant because of s 20 of the *Petroleum (Onshore) Act 1991*, which allows for a licence to remain in force until the licence holder withdraws their application or the Minister approves or rejects the application.⁶
- 1.5** Mr Field further contended that none of these licences have any work plans in place and that many licence holders have 'failed to meet their obligations under the work plans that were in place before the licences had expired'. He referred to the communities of North West New South Wales who have been 'seeking a resolution to this entirely untenable position, in many instances for years and in some instances for more than a decade'.⁷
- 1.6** The following section provides background on the process for issuing and renewing PELs in New South Wales as well as a summary on the zombie PELs currently in force.

² *Minutes*, NSW Legislative Council, 5 May 2021, p 2105.

³ *Minutes*, NSW Legislative Council, 11 May 2021, pp 2148-2151.

⁴ Explanatory note, Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021.

⁵ Justin Field, Second reading speech: Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, 5 May 2021.

⁶ Justin Field, Second reading speech: Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, 5 May 2021.

⁷ Justin Field, Second reading speech: Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, 5 May 2021.

Background

- 1.7** Petroleum exploration is regulated by the *Petroleum (Onshore) Act 1991*. According to s 29 of the Act, 'the holder of an exploration licence has the exclusive right, in accordance with the conditions of the licence, to prospect for petroleum on the land comprised in the licence'. Prior to 2015, petroleum exploration licences (PELs) were awarded on a first in, first serve basis. In addition, there was no requirement for applicants to demonstrate minimum standards.⁸
- 1.8** Following the *Final Report of the Independent Review of Coal Seam Gas Activities in NSW* published by the NSW Chief Scientist in September 2014, the government released the NSW Gas Plan and introduced the *Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Act 2015*. These changes sought to manage the state's resources with 'strict requirements to meet the highest levels of financial and technical standards, underpinned by highly transparent processes'.⁹
- 1.9** In December 2015, the government published the Strategic Release Framework for Coal and Petroleum Exploration (the Framework), under which areas would only be released for exploration after environmental, social and economic factors have been considered and the community has had input. The Framework comprises seven steps to issuing a PEL.¹⁰
- 1.10** As part of the Framework, the Minister invites interested parties to apply to participate in an auction for a PEL. This auction consists of two parts: a prequalification stage for bidders, and an invitation to enter the auction process.¹¹
- 1.11** To enter the first stage, interested parties must provide information in relation to five prequalification minimum standards from the Petroleum Mining Standards and Merit Assessment Procedure. These include: technical capability, financial capability, corporate history, environmental track record and community consultation capability.¹²
- 1.12** Applicants deemed to have met the minimum standards are invited to participate in the PEL auction. As part of this stage, applicants must prepare a work program which describes the nature, extent and estimated expenditure of operations. Work programs are used to assess applications and if the title is granted, they ensure that the licence holder carries out effective exploration during the term of their licence.¹³
- 1.13** The legislation provides that the Minister has the power to grant or refuse the application for a PEL. If the reserve price is met in the auction, the applicant with the highest bid will be considered subject to an appropriate work program. The Minister seeks endorsement from Cabinet before awarding the PEL.¹⁴

⁸ Anthony Roberts, Second reading speech: Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015, 15 October 2015.

⁹ Anthony Roberts, Second reading speech: Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015, 15 October 2015.

¹⁰ NSW Government, Strategic Release Framework for Coal and Petroleum Exploration, pp 3-5.

¹¹ NSW Government, Strategic Release Framework for Coal and Petroleum Exploration, p 8.

¹² NSW Government, Strategic Release Framework for Coal and Petroleum Exploration, p 8.

¹³ NSW Government, Strategic Release Framework for Coal and Petroleum Exploration, pp 8-9.

¹⁴ NSW Government, Strategic Release Framework for Coal and Petroleum Exploration, p 9.

1.14 The Minister may refuse an application at any time in the competitive selection process. Grounds for refusal include:

- failure to provide information about the controlling power in the body corporate within the specified period
- failure to meet the acceptable standards regarding work programs
- failure to pay relevant fees or provide requested information
- the applicant has an unsatisfactory compliance history
- the applicant is not a fit and proper person.

What is a zombie petroleum exploration licence?

1.15 A zombie petroleum exploration licence (PEL) refers to a licence that has expired but remains in force due to a pending renewal application.

1.16 Section 19 of the *Petroleum (Onshore) Act 1991* provides that 'the holder of a petroleum title may apply for renewal of the title by application made within the time prescribed' before the licence expires. Applications for renewal must be accompanied by an application fee and any information prescribed in the regulations.

1.17 Section 20 of the Act ensures that a licence remains in force during the renewal process:

If an application for the renewal of a title has not been withdrawn or otherwise finally disposed of before the date on which the title would, but for this section, expire, the title continues in force until the date on which the application is withdrawn or otherwise finally disposed of.¹⁵

1.18 As at the time of the establishment of this inquiry, there were 12 zombie PELs in New South Wales, all of which were issued prior to the 2015 changes to the way licences are issued. The following table provides a summary of these PELs.

¹⁵ *Petroleum (Onshore) Act 1991*, s 20.

Table 1 Zombie petroleum exploration licences in New South Wales¹⁶

Title	Title holder	Grant date	Expiry date
PEL 1	Australian Coalbed Methane Santos QNT	11 February 1993	10 February 2015
PEL 6	Comet Ridge Gunnedah Santos NSW	9 December 1993	8 December 2011
PEL 12	Australian Coalbed Methane Santos QNT	27 September 1995	26 September 2016
PEL 427	Comet Ridge Gunnedah Comet Ridge	21 May 1998	20 May 2016
PEL 428	Comet Ridge Gunnedah Comet Ridge Davidson Prospecting	15 September 1998	14 September 2012
PEL 433	Santos NSW Santos QNT	14 February 2001	13 February 2015
PEL 434	Santos NSW Santos QNT Energy Australia Narrabri	14 February 2001	13 February 2016
PEL 450	Santos QNT	16 June 2006	15 June 2012
PEL 452	Santos QNT	10 January 2007	9 January 2013
PEL 456	Hunter Gas Santos QNT	5 March 2008	5 March 2018
PEL 462	Santos QNT	22 October 2008	22 October 2011

1.19 It is important to note that the Framework described in the previous section does not apply to PELs issued prior to the introduction of the Framework. In February 2020, as part of its inquiry into the implementation of the recommendations contained in the NSW Chief Scientist's Independent Review of Coal Seam Gas Activities in New South Wales, this committee recommended that the Framework be applied 'to the consideration of renewals for the 12 expired Petroleum Exploration Licence areas in the North West of the state given the long period that has passed since those licences were active'.¹⁷

1.20 In response, the NSW Government stated that doing so would create sovereign risk and legal issues for the state:

There is no legislative basis for this recommendation and taking this action would likely create a sovereign risk issue for the state and result in legal challenges. A Petroleum

¹⁶ Submission 12, Lock the Gate Alliance, p 8.

¹⁷ Portfolio Committee No. 4 – Industry, NSW Legislative Council, *Implementation of the NSW Chief Scientist's Independent Review of Coal Seam Gas Activities in New South Wales*, P 20.

Exploration Licence holder is legally entitled to apply to renew that title and have that application granted or refused following a merit assessment process.¹⁸

- 1.21** However, the government confirmed that all PEL renewal applications must comply with requirements outlined in the *Petroleum (Onshore) Act 1991*, including 'minimum standards for exploration work programs and technical and financial capabilities and the "use it or lose it" policy as well as adherence to all codes of practice including environmental management and rehabilitation, produced water and community consultation'.¹⁹
- 1.22** In its submission to this inquiry, the Department of Regional NSW informed the committee that the NSW Government is developing 'a comprehensive strategy and statement on the Future of Gas in New South Wales'. In relation to coal and gas projects currently underway, the department stated that 'the NSW Government's comprehensive regulatory framework delivers strong and certain controls to ensure safe and environmentally responsible resource exploration and production' and that 'authorisations are subject to strict conditions, codes of practice, policies and regulatory requirements to ensure appropriate protections.' The department also confirmed that this applies to licences being assessed for renewal.²⁰

Recent developments

- 1.23** Subsequently, around three weeks before this inquiry was due to report, the NSW Government released the Future of Gas Statement, which outlines the government's new approach to gas exploration and production. According to the statement, the NSW Government is committed to:
- delivering secure and reliable access to gas through a mix of sources
 - providing certainty for local communities affected by gas exploration and production
 - providing guidance on what the future will like for key gas users in the manufacturing sector.²¹
- 1.24** Part of this approach includes a 77 per cent reduction of the total area currently covered by PELs, with the exception of licences supporting the Narrabri Gas Project.²² This means that of the 12 zombie PELs in the state, gas production will be ruled out under eight of these, with the remaining four to be reduced in size to support the Narrabri Gas Project.²³
- 1.25** The evidence discussed in Chapter 2 reflects the position as it was prior to this important development.

¹⁸ Government response, *Implementation of the NSW Chief Scientist's Independent Review of Coal Seam Gas Activities in New South Wales*, p 6.

¹⁹ Government response, *Implementation of the NSW Chief Scientist's Independent Review of Coal Seam Gas Activities in New South Wales*, p 6.

²⁰ Submission 28, Department of Regional NSW, p 2.

²¹ NSW Government, Future of Gas Statement, July 2021, p 2.

²² NSW Government, Future of Gas Statement, July 2021, p 8.

²³ Alexandra Smith, 'Most 'zombie' exploration licences across NSW killed off by government', *Sydney Morning Herald*, 21 July 2021, <https://www.smh.com.au/politics/nsw/most-zombie-exploration-licences-across-nsw-killed-off-by-government-20210720-p58bfg.html>.

Chapter 2 Key issues

This chapter summarises stakeholders' views on the bill, prior to the announcement in late July about the government's Future of Gas Statement. The chapter begins with an overview of concerns expressed about zombie petroleum exploration licences and the subsequent need for the bill, before moving onto a discussion of the mining industry's perspective and their opposition to the bill.

Concerns about zombie petroleum exploration licences

2.1 The majority of inquiry participants supported the cancellation of zombie petroleum exploration licences (PELs), as per the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021. These stakeholders, including community and environmental groups, local councils and academics, supported the cancellation of zombie PELs for the benefit of local communities and the environment. Their views centered around three key themes:

- a lack of progress and transparency on the part of government and licence holders to renew or withdraw zombie PELs
- a lack of certainty for farmers, agricultural businesses and landholders
- broader concerns about the effect of mining on the environment.

Lack of progress and transparency

2.2 In relation to the first theme, stakeholders expressed frustration with the lack of progress and information both from the government and from the mining companies which currently hold zombie PELs. National environmental group, Lock the Gate Alliance described the introduction of the bill as 'an effort to end a years-long paralysis that has affected people, farming businesses and communities across North West NSW caused by the government's failure to apply its own policies and basic fairness'.²⁴

2.3 One argument for the bill put to the committee was that the law in its current form allows for delay in licence renewal. As explained in Chapter 1, the *Petroleum (Onshore) Act 1991* allows PELs to remain in force while they are being considered for renewal.²⁵

2.4 Lock the Gate Alliance argued that the law 'essentially allows these licences to remain in force in perpetuity'. The group believed that as a result, the government and mining company Santos, 'have deferred and delayed decision on the renewal of 11 expired and unused PELs in the North West for many years'.²⁶

2.5 Lock the Gate Alliance highlighted that communities in North West New South Wales have been 'seeking action from the government to extinguish expired and unused coal seam gas PELs

²⁴ Submission 12, Lock the Gate Alliance, p 1.

²⁵ *Petroleum (Onshore) Act 1991*, s 20.

²⁶ Submission 12, Lock the Gate Alliance, p 2.

covering their region for over five years'.²⁷ The group explained that in May 2018, the former Minister for Resources informed the Legislative Council that 'he was "not proposing to take any action on the PELs" until the assessment and determination of the Narrabri gas project was complete'.²⁸

2.6 The government approved the Narrabri gas project in September 2020. Since then, Lock the Gate Alliance has sought information from the Department of Regional NSW on next steps. According to the Lock the Gate Alliance submission, the department indicated that it has reopened its consideration of the renewal applications for the expired PELs and has sought further information from licence holders as part of this process. The submission also states that there is no public information on this process, 'but remarks by the Deputy Premier indicate that the government is "negotiating" with Santos over the future of' their licences. Lock the Gate Alliance did not consider this to be a 'robust, transparent or fair' process.²⁹

2.7 In evidence before the committee, NSW Co-ordinator of Lock the Gate Alliance, Ms Georgina Woods reiterated that there is a lack of public information on this process. In addition, Ms Woods asserted that the fact that the government is in negotiation with Santos indicates that 'Santos is in the driver's seat':

... I do not have any understanding for why a decision has not been made about these licences over the many, many years that have passed. The previous Minister two Ministers ago, Don Harwin, told the Parliament that the applications for renewal would not be processed until the Narrabri Gas Project was determined by the Planning Commission, and he said that 3½ years ago.

To us, that was an indication that Santos was in the driver's seat of the process because, had the Government had a clear sense of its own priorities of the public interest and an understanding of where gas ought and ought not to be allowed to be explored for, it could easily have processed those renewal applications and done so by its own criteria. Waiting for Narrabri to us indicated that they were waiting for Santos' convenience and Santos' priorities to determine which of the licences would be renewed. From remarks that the Deputy Premier has made more recently, it does seem to us that they are negotiating with Santos about these renewals. Nobody who lives in the areas that are affected by these petroleum exploration licences have any input or understanding of the nature of that negotiation and what kind of decision will be made and on what terms.³⁰

2.8 Another argument put forward in support of the bill is the view that licence holders do not meet legislative and policy requirements to retain their PELs.

2.9 Inquiry participants, including Lock the Gate Alliance, the Country Women's Association of NSW and the Upper Hunter Shire Council, acknowledged that the zombie PELs were issued prior to the introduction of the Framework which sets out the more stringent process for granting a PEL. However, these stakeholders expressed the view that the licence holders currently fail to meet the Minimum Standards and Merit Assessment Procedure, including the

²⁷ Submission 12, Lock the Gate Alliance, p 2.

²⁸ Submission 12, Lock the Gate Alliance, p 2.

²⁹ Submission 12, Lock the Gate Alliance, p 3.

³⁰ Evidence, Ms Georgina Woods, NSW Co-ordinator, Lock the Gate Alliance, 6 July 2021, p 6.

'use it or lose it' policy, which applies to the renewal of licences regardless of when they were issued.³¹

- 2.10** In particular, inquiry participants expressed concern that there is little clarity on whether the government and licence holders are adhering to the 'use it or lose it' policy. In relation to the policy, the NSW Gas Plan, published in November 2014, states:

The Government will implement and enforce a 'use it or lose it' policy requiring titleholders to commit to developing the state's resources or risk losing their title.

Presently, 15% of the state is under active petroleum title, but there are currently only three active project areas in the state – Camden, Gloucester and Narrabri.

The Government will implement and enforce a 'use it or lose it' policy in relation to titleholders in New South Wales. We will seek from titleholders serious commitments to invest in this state by the end of 2015. If a serious commitment to invest in the state cannot be demonstrated, companies may face cancellation of their titles.

This will give communities greater clarity and certainty about gas industry intentions.

- 2.11** Lock the Gate Alliance highlighted that this policy:

... requires title holders to commit to developing the state's resources or risk losing their prospecting title. If a serious commitment cannot be demonstrated at application, transfer, upon renewal or during the term of a prospecting title, companies may face refusal or cancellation of their titles.³²

- 2.12** Stakeholders outlined that 11 of the 12 zombie PELs have not been subject to active exploration in the last five years, and questioned whether the 'use it or lose it' policy had been enforced.³³

- 2.13** North West Protection Advocacy also raised that it is difficult to access information on whether licences are active and thus assess whether the 'use it or lose it' policy is being enforced. The group stated that 'it is next to impossible for the public to assess which licences are still current unless significant knowledge is held about where to and how to search for that information'.³⁴

- 2.14** While NSW Co-ordinator of the Lock the Gate Alliance, Ms Georgina Woods explained that the government has confirmed through the GIPA process that applications for renewal have been made on the zombie PELs, the applications have not been made public anywhere.³⁵

- 2.15** On a related note, the Upper Hunter Shire Council also highlighted that the *Petroleum (Onshore) Act 1991* requires that the size of the area over which the renewal of a PEL is granted must not exceed 75 per cent of the size of the licence area originally granted or the area over which the licence area's previous renewal was granted.³⁶ Licence holders can apply to the Minister for a

³¹ See, Submission 14, Country Women's Association, p 1; Submission 12, Lock the Gate Alliance, pp 4-7.

³² Submission 12, Lock the Gate Alliance, p 5.

³³ Submission 12, Lock the Gate Alliance, pp 5-6; Submission 3, Upper Hunter Shire Council, p 3.

³⁴ Submission 21, North West Protection Advocacy, pp 9-13.

³⁵ Evidence, Ms Georgina Woods, NSW Co-ordinator, Lock the Gate Alliance, 6 July 2021, p 6.

³⁶ Submission 3, Upper Hunter Shire Council, p 4.

variation to this requirement by detailing any 'special circumstances' in relation to their application. The council noted that there is ample detail on what does or does not constitute a special circumstance, and that 'apathy and inactivity are not considered legitimate special circumstances'. The council informed the committee that it 'is not aware of a single instance of a PEL being reduced in size upon its renewal' and suggested that 'it would be interesting for the department of provide a detailed analysis of the land areas of PELs when issued and after renewal'.³⁷

2.16 A number of stakeholders agreed with the proposition that it would be a better outcome for the licences to be cancelled, either by the government or through the bill, and that if the government then chooses to reintroduce gas exploration in those regions, any new applications would have to go through the process as per the Framework.³⁸ To this end, Ms Danica Leys, Chief Executive Officer of the Country Women's Association of NSW stated:

That would have to be a much better way to go: Wipe the slate clean, so to speak, and start again with a proper process that the New South Wales Government has created in order to try and give some assurances to rural communities. If it is so confident in this process in terms of its ability to give those assurances to regional communities, then let us wipe the slate clean and actually go through the process.³⁹

2.17 When further asked for her views on whether legislation is the appropriate mechanism to remove what is essentially a 'property right' issued to a licence holder, as opposed to the usual administrative processes, Ms Woods stated that the 'the absurdity of how long this has been dragging on and the impact that it has on the people who are affected by these licences and their businesses have really got to a point that it is so unreasonable that it is ... warranted for Parliament to intervene'.⁴⁰

2.18 In this context, the committee explored the issue of potential compensation for licence holders. In response to questions about whether the government would be required to pay compensation to licence holders should they choose not to renew the licences under the current legislation, Dr Madeleine Taylor, Senior Lecturer in Energy Law at Macquarie University explained that it depends on how the cancellations take place and the conditions of the licence as granted to the licence holder. For example, if there were a buyback, then the government would need to pay compensation. However, if there were an outright cancellation, there may not be a need for compensation if it is initiated for a public purpose.⁴¹ Dr Taylor also confirmed that if Parliament passes the bill, this could avoid any claims for compensation.⁴²

³⁷ Submission 3, Upper Hunter Shire Council, p 4.

³⁸ Evidence, Ms Georgina Woods, NSW Co-ordinator, Lock the Gate Alliance, 6 July 2021, p 8; Evidence, Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW, 6 July 2021, p 9; Evidence, Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council, 6 July 2021, p 20.

³⁹ Evidence, Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW, 6 July 2021, p 9.

⁴⁰ Evidence, Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW, 6 July 2021, pp 11-12.

⁴¹ Evidence, Dr Madeline Taylor, Senior Lecturer, Energy Law, Macquarie University, 6 July 2021, p 15.

⁴² Evidence, Dr Madeline Taylor, Senior Lecturer, Energy Law, Macquarie University, 6 July 2021, p 16.

Lack of certainty for affected communities

- 2.19** Inquiry participants argued that the legislation in its current form, which allows PELs to remain in force with no time limit until a decision is made on their renewal, has had a significant impact on the local communities affected by these PELs.
- 2.20** Stakeholders outlined that the current legislation creates uncertainty for local communities, including farmers, landholders and agricultural businesses, leading to personal and financial harm.⁴³
- 2.21** Community group, Mullaley Gas and Pipeline Accord, made a number of observations on the impact of zombie PELs on local communities.
- **Effect on investment:** The uncertainty created by zombie PELs makes it difficult to justify and obtain finance for investment in agricultural businesses. For example, one of the largest potato and peanut enterprises in New South Wales has declined to expand production due to proximity to the Narrabri gas project and the presence of a PEL over their land.⁴⁴
 - **Personal impact:** For years, individuals and community groups have spent significant time and money into 'defending their properties from the threat of coal seam gas developments and infrastructure'. This has had 'an enormous cost' including 'lost productivity, lost opportunities, and, tragically, lost lives'.⁴⁵
 - **Succession planning:** The succession planning process on farms affected by zombie PELs has been 'tainted'. The lack of information from mining companies about proposed or planned coal seam gas activities adds to uncertainty in succession planning.⁴⁶
- 2.22** The issue of uncertainty for local communities was also a major theme that emerged in responses to the committee's online questionnaire. For example, one respondent highlighted the stress caused to farmers:

I feel that this bill should be supported as farmers are frequently placed in a stressful position over long periods of time not knowing whether their land is going to be compromised or harmed by mining companies or not. This ongoing uncertainty also creates unnecessary stress and division in many regional communities.⁴⁷

⁴³ Submission 12, Lock the Gate Alliance, pp 3-4; Submission 14, Country Women's Association, p 1.

⁴⁴ Submission 13, Mullaley Gas and Pipeline Accord Inc, pp 3-4. See also, Evidence, Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW, 6 July 2021, p 5; Submission 14, Country Women's Association of NSW, p 1; Evidence, Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council, 6 July 2021, p 19.

⁴⁵ Submission 13, Mullaley Gas and Pipeline Accord Inc, p 4. See also, Submission 14, Country Women's Association of NSW, p 2; Evidence, Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW, 6 July 2021, p 5; Evidence, Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council, 6 July 2021, p 20.

⁴⁶ Submission 13, Mullaley Gas and Pipeline Accord Inc, pp 4-5.

⁴⁷ Online questionnaire report, *Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021*, pp 2-3.

2.23 Another respondent who lives and farms near the Narrabri gas project made similar comments:

I live and farm food and fibre less than 6km downstream from Santos' Narrabri Gas Project. Retaining or renewing these so-called zombie licences is not in the interests of NSW nor is it in the interests of the local communities and economies over which such licences persist. The persistence of such licences is a cause of significant distress and anxiety for the rural communities over which they lie. Development of these zombie PELS also risks not only land and water resources but sustainable farming futures ...⁴⁸

Concerns about the environment

2.24 Finally, inquiry participants in support of the bill spoke more broadly about the effects of mining on agriculture and the environment. These stakeholders expressed concern about the impacts of coal seam gas on groundwater and soil, as well as its contribution to climate change more broadly.

2.25 The Mullaley Gas and Pipeline Accord explained that coal seam gas infrastructure disturbs the soil surface through compaction, soil mixing and layer inversion, which has an impact on soil fertility.⁴⁹ The group also explained that coal seam gas developments pose a significant risk to groundwater through the 'sinking of wells through the water table and consequent depressurising and drawdown of water' as well as the potential 'contamination of water by gas wells'. Mullaley Gas and Pipeline Accord highlighted that most livestock, farming and irrigation businesses in their region rely on access to clean and reliable groundwater to meet water needs on their farms, without which most farming businesses in the region would 'cease to exist'.⁵⁰

2.26 Many respondents to the online questionnaire also expressed concern about the impact of coal seam gas activity on groundwater and supported the bill to protect this resource and provide certainty to farmers.⁵¹

2.27 Academics in Energy Law at Macquarie University, Dr Madeline Taylor and Professor Tina Soliman Hunter viewed the bill as a 'necessary first step to the protection of agricultural land'. However, they argued that this does not provide sufficient protection long term. They noted that even if the licences are cancelled as per the bill, new licences can be issued over the land. This is because agricultural land does not fall under any excluded industry clusters, which includes the viticulture and equine industries. Rather they argued that all Biophysical Strategic Agricultural Land should be 'excluded permanently from any gas activity to ensure future food security and protect' agricultural industries.⁵²

⁴⁸ Online questionnaire report, *Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021*, p 3.

⁴⁹ Submission 13, Mullaley Gas and Pipeline Accord Inc, p 2.

⁵⁰ Submission 13, Mullaley Gas and Pipeline Accord Inc, p 2. See also, Submission 18, Wando Conservation and Cultural Centre, p 1; Submission 14, Country Women's Association of NSW, p 2; Submission 2, Caroon Coal Action Group, p 1; Evidence, Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council, 6 July 2021, p 20.

⁵¹ Online questionnaire report, *Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021*.

⁵² Submission 1, Dr Madeline Taylor and Professor Tina Soliman Hunter, p 4.

2.28 In addition to concerns for the viability of agricultural land, stakeholders referred to broader environmental impacts of coal seam gas. Inquiry participants, including the Upper Hunter Shire Council, Mullaley Gas and Pipeline Accord and respondents to the online questionnaire, contended that coal seam gas projects are incompatible with the NSW Government's net zero emissions by 2050 target.⁵³

Mining industry perspective

2.29 Inquiry participants from the mining industry opposed the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021. These stakeholders provided two key reasons for their opposition:

- the importance of certainty for PEL holders and concerns about sovereign risk should the bill pass
- the importance of petroleum mining for the energy sector and the economy more broadly.

Certainty for licence holders

2.30 Stakeholders from the mining industry, including Santos, Comet Ridge and the Australian Petroleum Production & Exploration Association (APPEA) explained that the provisions in the *Petroleum (Onshore) Act 1991* which ensure that PELs remain in force while they are being considered for renewal are a common feature across regulatory regimes in Australia. The provisions aim to provide certainty for licence holders that a licence will not be extinguished in the event of an outstanding decision, political delays, machinery of government or other force majeure circumstances out of their control.⁵⁴

2.31 These stakeholders suggested that removing this certainty for licence holders would put the New South Wales regulatory system out of alignment with the rest of the country, placing New South Wales at a disadvantage, and leading to a potential shortfall of gas and an increase in sovereign risk.⁵⁵

2.32 APPEA highlighted that there has already been an impact on the industry's 'appetite for new investments' due to 'regulatory instability, intervention and uncertainty since 2010' along with Australia being a high cost destination for business. In addition, the organisation noted that the COVID-19 pandemic exacerbated already falling oil prices. APPEA argued that regulations which 'suppress the industry's potential to develop Australia's resources', such as those contained in the bill, can result in 'heavy economic costs', particularly considering the industry is already facing 'challenging market conditions and fierce competition for scarce investment capital'.⁵⁶

⁵³ Submission 3, Upper Hunter Shire Council, p 5; Submission 13, Mullaley Gas and Pipeline Accord Inc, p 5.

⁵⁴ Submission 23, Comet Ridge Limited, p 2, Submission 24, Santos Limited, p 6; Submission 25, Australian Petroleum Production & Exploration Association, p 4.

⁵⁵ Submission 23, Comet Ridge Limited, p 4;

⁵⁶ Submission 25, Australian Petroleum Production & Exploration Association, p 3.

- 2.33** Comet Ridge and APPEA also noted that the lack of activity by licence holders has not been the choice of the licence holders but rather is due to the licences being considered for renewal by the government.⁵⁷ Comet Ridge suggested that it would be 'extremely unfair' to cancel the licences in the circumstances.⁵⁸
- 2.34** Dr Madeline Taylor and Professor Soliman Hunter rejected the argument that there would necessarily be sovereign risk as a result of the cancellation of PELs. Rather, the academics believed that investors require clear terms for a licence, including timeframes. For example, Dr Taylor stated: 'the Northern Territory and South Australia have very certain terms in which a licence upheld will lapse. There is a maximum of two times in which you can renew a five-year term PEL. That provides certainty, reduces sovereign risk and reduces investment uncertainty ...'⁵⁹

Importance of petroleum exploration

- 2.35** The mining industry stakeholders also referred more broadly to the importance of oil and gas in meeting Australia's energy needs and for the economy.
- 2.36** Comet Ridge described petroleum as 'essential to the Australian economy and way of life'. The organisation pointed to a number of uses of petroleum and refined and derived products, including powering cars, providing energy and supporting manufacturing.⁶⁰
- 2.37** In addition, Comet Ridge highlighted that natural gas is essential for many industrial processes in manufacturing, and that almost half of Australian homes are connected to the natural gas network. However, the organisation noted that New South Wales imports its natural gas from other Australian states meaning that the costs of gas are higher due to transport costs and pipeline constraints. Comet Ridge therefore described the cancellation of PELs as 'non-sensical', arguing that 'only exploration will lead to new gas discoveries which obviously would be of benefit to the state'.⁶¹
- 2.38** Santos referred to the role of natural gas in 'serving clean energy needs of Australia and the world for at least the next two decades'. The organisation explained that converting gas into hydrogen offers the fastest and lowest-cost pathway to a hydrogen economy, which combined with carbon capture and storage 'could put Australia at the forefront of this new industry while the technology for renewable energy evolves and the costs come down'.⁶²
- 2.39** Further to this, Santos argued that the natural gas industry along with emissions reduction technologies could contribute to the region's economic recovery after three years of drought,

⁵⁷ Submission 23, Comet Ridge Limited, p 2; Submission 25, Australian Petroleum Production & Exploration Association, p 5.

⁵⁸ Submission 23, Comet Ridge Limited, p 2.

⁵⁹ Evidence, Dr Madeline Taylor, Senior Lecturer, Energy Law, Macquarie University, 6 July 2021, p 16.

⁶⁰ Submission 23, Comet Ridge Limited, p 1.

⁶¹ Submission 23, Comet Ridge Limited, pp 1-2.

⁶² Submission 24, Santos Limited, p 1.

bushfires and the COVID-19 pandemic, facilitating new investments, jobs and business opportunities.⁶³

Committee comment

- 2.40** Through this inquiry, the committee has received two very different perspectives on the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021.
- 2.41** The committee appreciates that local communities affected by the zombie PELs largely support the bill. These communities, particularly the farmers and agricultural businesses, faced uncertainty over the future of their land for years. Community groups told us that there have been significant delays by the government in considering renewal applications for zombie PELs, and that it is difficult to access information on these applications. In addition, it was clear to the committee, both from the submissions and responses to the online questionnaire, that community members hold serious concerns about the impact of coal seam gas mining on agricultural land in their regions, and on climate change more generally.
- 2.42** However, we also heard that a degree of certainty is required for PEL holders to maintain their licences while waiting on their renewal applications to be assessed, particularly if this process is affected by delays and other circumstances outside of their control. The mining industry stakeholders explained that the inactivity on their PELs is the result of government delay and not a choice made of their own accord. Furthermore, the committee notes the role that petroleum and gas have played in the Australian energy sector and in the economy more broadly.
- 2.43** As noted in Chapter 1, around three weeks before this inquiry was due to report, the NSW Government released the Future of Gas Statement which reduces the land covered by PELs by 77 per cent. This means that gas production is ruled out for 8 of the 12 zombie PELs, with the remaining 4 PELs reduced in size to support the Narrabri gas project.
- 2.44** This is undoubtedly a welcome step and provides stakeholders and communities with certainty where until now there has been none. However, it is unfortunate that the NSW Government did not engage with our inquiry apart from a very brief submission, which did not provide information about this critical decision. The government's delay in coming to this decision has left communities in limbo over many years. In the interests of transparency and certainty going forward, the government should ensure that it provides information to the public around the use of the PELs which remain in place to support the Narrabri gas project.

⁶³ Submission 24, Santos Limited, p 2. See also, Submission 25, Australian Petroleum Production & Exploration Association, p 1.

Appendix 1 Submissions

No.	Author
1	Dr Madeline Taylor and Professor Tina Soliman Hunter
2	Caroona Coal Action Group Inc.
3	Upper Hunter Shire Council
4	Confidential
5	Name suppressed
6	Mr Robert Skappel
7	Mrs Janene Theol
8	Mr David Schwartz
9	Dr Roderick Anderson
10	Name suppressed
11	Name suppressed
12	Lock the Gate Alliance
13	Mullaley Gas and Pipeline Accord Inc
14	Country Women's Association of NSW
15	Mr David Minard
16	Ms Laura Mooney
17	Mrs Sonya Marshall
18	Wando Conservation and Cultural Centre
19	Name suppressed
20	Maules Creek Branch of the Country Women's Association of NSW
21	North West Protection Advocacy
22	Maules Creek Community Council
23	Comet Ridge Limited
24	Santos Limited
25	Australian Petroleum Production & Exploration Association (APPEA)
26	NGP Economics
27	NSW Farmers' Association
28	Department of Regional NSW

Appendix 2 Witnesses at hearings*

Date	Witness	Position and Organisation
Tuesday 6 July 2021	Mr Andrew Abbey	Policy Director, NSW Minerals Council
Macquarie Room Parliament House Sydney and by videoconference	Ms Susan Lyle	Chair, Caroon Coal Action Group
	Mr Graeme Norman	Committee Member, Caroon Coal Action Group
	Ms Georgina Woods	NSW Coordinator, Lock the Gate Alliance
	Ms Danica Leys	CEO, Country Women's Association of NSW
	Dr Madeline Taylor	Senior Lecturer, School of Law, Macquarie University
	Professor Tina Soliman Hunter	Professor of Law, School of Law, Macquarie University
	Cr Kiwa Fisher	Deputy Mayor, Upper Hunter Shire Council

* The committee held one public hearing, combining witnesses from this inquiry with witnesses for the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 inquiry.

Appendix 3 Minutes

Minutes no. 40

Tuesday 18 May 2021

Portfolio Committee No. 4 – Industry

Room 1043, Parliament House, Sydney, 10.31 am

1. Members present

Mr Banasiak, *Chair (via videoconference)*

Ms Boyd (participating for the duration of the inquiry into Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021)

Ms Cusack (*via videoconference*)

Mr Field (substituting for Ms Hurst for the duration of the inquiry into Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021) (*via videoconference*)

Mr Faraway (*via videoconference*)

Mr Poulos (substituting for Mr Amato for the duration of the inquiry into Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the inquiry into Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021)

Mr Veitch (*via videoconference*)

2. Apologies

Ms Faehrmann

Mr Primrose

3. Previous minutes

Resolved, on the motion of Ms Cusack: That draft minutes no. 39 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 11 May 2021 – Email from Ms Abigail Boyd MLC to the secretariat, requesting that she be a participating member on the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021
- 13 May 2021 – Email from Ms Tess Vickery, Office of the Hon Emma Hurst MLC, Animal Justice Party to the secretariat, advising that Ms Cate Faehrmann MLC will be substituting for Ms Hurst for the duration of the inquiry into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021, and that Mr Justin Field MLC will be substituting for Ms Hurst for the duration of the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021
- 14 May 2021 – Email from Ms Kaelee Abboud, Office of the Government Whip, advising that the Hon Peter Poulos MLC will be substituting for the Hon Lou Amato MLC for the duration of the inquiry into Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the inquiry into Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021).

5. Inquiry into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021

5.1 Terms of reference

The committee noted the following terms of reference referred by the House on 11 May 2021:

That:

- (a) the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 be referred to Portfolio Committee No. 4 – Industry for inquiry and report,
- (b) the bill be referred to the committee at the conclusion of the mover's second reading speech,
- (c) the committee report by 12 August 2021.

5.2 Proposed timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- Tuesday 15 June 2021 – closing date for submissions
- Monday 5/Tuesday 6 July 2021 – one hearing day
- Friday 30 July 2021 – circulation of Chair's draft report
- Friday 6 August 2021 – report deliberative (to be held prior to the commencement of the first hearing for the timber industry inquiry)
- Thursday 12 August 2021 – tabling of report in the House.

5.3 Stakeholder list

Resolved, on the motion of Ms Cusack: That the following stakeholders be invited to make a submission, with members to forward any additional stakeholders to the secretariat by Thursday 20 May 2021:

- Department of Planning, Industry and Environment
- Liverpool Plains Shire Council
- Gunnedah Shire Council
- Santos
- Hunter Gas Pipeline
- Whitehaven Coal
- NSW Mineral Council
- NSW Farmers
- Lock the Gate – Gasfield Free
- Caroon Coal Action Group and SOS Liverpool Plains.

5.4 Submissions, online questionnaire and proformas

Resolved, on the motion of Ms Cusack:

- That the committee accept submissions from nominated stakeholders and other interested parties, including individuals.
- That the committee conduct an online questionnaire, with a closing date of Tuesday 15 June 2021.
- That the questions for the online questionnaire be as follows:
 - What is your position on the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021? Select one of these options: support, support with amendments, oppose, neutral/undecided
 - In relation to the previous question, please explain your position on the bill (500 word text box)
 - Do you have any other comments on the bill (250 word text box)
- That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:
 - the committee agree to publication of the report via email, unless a member raises any concerns
 - individual responses be kept confidential on tabling
- That the committee not accept any proformas.

6. Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

6.1 Terms of reference

The committee noted the following terms of reference referred by the House on 11 May 2021:

That:

- (a) the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 be referred to Portfolio Committee No. 4 – Industry for inquiry and report,
- (b) the bill be referred to the committee at the conclusion of the mover's second reading speech,
- (c) the committee report by 12 August 2021.

6.2 Proposed timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- Tuesday 15 June 2021 – closing date for submissions
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- Friday 30 July 2021 – circulation of Chair's draft report
- Friday 6 August 2021 – report deliberative (to be held prior to the commencement of the first hearing for the timber industry inquiry)
- Thursday 12 August 2021 – tabling of report in the House.

6.3 Stakeholder list

Resolved, on the motion of Mr Field: That the following stakeholders be invited to make a submission, with members to forward any additional stakeholders to the secretariat by Thursday 20 May 2021:

- Department of Planning, Industry and Environment
- Liverpool Plains Shire Council
- Gunnedah Shire Council
- Moree Plains Shire Council
- Dubbo Council
- Comet Ridge
- Santos
- NSW Mineral Council
- NSW Farmers
- Lock the Gate – Gasfield Free
- Caroon Coal Action Group and SOS Liverpool Plains.

6.4 Submissions, online questionnaire and proformas

Resolved, on the motion of Ms Cusack:

- That the committee accept submissions from nominated stakeholders and other interested parties, including individuals.
- That the committee conduct an online questionnaire, with a closing date of Tuesday 15 June 2021.
- That the questions for the online questionnaire be as follows:
 - What is your position on the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021? Select one of these options: support, support with amendments, oppose, neutral/undecided
 - In relation to the previous question, please explain your position on the bill (500 word text box)
 - Do you have any other comments on the bill (250 word text box)
- That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:
 - the committee agree to publication of the report via email, unless a member raises any concerns

- individual responses be kept confidential on tabling
- That the committee not accept any proformas.

6.5 Provision of documents to participating member

Resolved, on the motion of Mr Field: That Ms Boyd, who has advised the committee that she intends to participate for the duration of the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, be provided with copies of meeting papers and unpublished submissions.

6.6 Briefing paper

Resolved, on the motion of Ms Cusack: That the committee request a briefing paper from the Parliamentary Research Service on the process for issuing exploration licences, to be provided to the committee before the first hearing.

7. Adjournment

The committee adjourned at 10.42 am, *sine die*.

Shaza Barbar
Committee Clerk

Minutes no. 41

Tuesday 6 July 2021

Portfolio Committee No. 4 – Industry

Macquarie Room, Parliament House, Sydney and via videoconference, 9.41 am

1. Members present

Mr Banasiak, *Chair*

Ms Hurst, *Deputy Chair* (via videoconference, until 9.52 am)

Ms Faehrmann (substituting for Ms Hurst for the duration of the inquiry into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021) (via videoconference, from 9.55 am until 11.30 am)

Mr Farraway (via videoconference)

Mr Field (substituting for Ms Hurst for the duration of the inquiry into the long term sustainability and future of the timber and forest products industry and the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021) (via videoconference)

Mr Martin (via videoconference)

Mr Poulos (via videoconference)

Mr Primrose (via videoconference)

Mr Veitch (via videoconference)

Ms Boyd (participating for the duration of the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021) (via videoconference, from 9.50 am until 12.21pm)

2. Committee membership

The committee noted that the Hon Taylor Martin replaced the Hon Catherine Cusack on the committee from 20 May 2021; and the Hon Peter Poulos replaced the Hon Lou Amato on the committee from 20 May 2021.

3. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 40 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 26 March 2021 – Email from Ms Tess Vickery, Office of the Hon Emma Hurst, to secretariat, advising that Mr Field will be substituting for Ms Hurst for the duration of the inquiry into the long term sustainability and future of the timber and forest products
- 13 May 2021 – Letter from the Hon Natasha Maclaren-Jones, Government Whip, to secretariat, advising that Mr Poulos will be substituting for Mr Amato for the duration of the inquiry into the long term sustainability and future of the timber and forest products
- 7 June 2021 – Email from the Hon Catherine Cusack to the committee, forwarding a copy of a public BAEconomics report provided to her for the purposes of the timber and forest products inquiry by a member of the public
- 13 June 2021 – Email from Mr Michael Ross to Chair, asking the committee to consider past private afforestation efforts as part of the timber and forest products inquiry and requesting an opportunity to provide further input
- 23 June 2021 – Correspondence from Mr Simon Moore, NSW Business Chamber, to the secretariat, attaching the report *Running on empty: How to keep NSW fuelled for the future*
- 30 June 2021 – Email from Mr Ashley Wells, Director – Government Relations, Australian Petroleum Production & Exploration Association to secretariat, declining the committee's invitation to attend the hearing for the inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021
- 30 June 2021 – Email from Ms Ksenya Belousova, Manager – Corporate, Government and Community Affairs, Whitehaven Coal to secretariat, declining the committee's invitation to attend the hearing for the inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021
- 30 June 2021 – Email from Mr Dale Aaskow, Chief Operating Officer, Comet Ridge Limited to secretariat, declining the committee's invitation to attend the hearing for the inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021
- 30 June 2021 – Email from Mr Keld Knudsen, Senior Government Affairs Adviser, Santos to secretariat, declining the committee's invitation to attend the hearing for the inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, and offering to provide further written responses to additional questions from the committee
- 1 July 2021 – Email from Ms Harriet Whyte, Executive Director, Department of Regional New South Wales, declining the committee's invitation to attend the hearing for the inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021, and requesting that the department make a late submission.

5. Inquiry into Budget Estimates 2021-2022 – procedural resolutions

The committee noted the Budget Estimates timetable for 2021-2022 agreed to by the House, with hearings commencing at 9.30 am and concluding by 6.00 pm, for Portfolio Committee No. 4:

Date	Portfolio
Wednesday 18 August 2021	Agriculture and Western New South Wales (Marshall)
Friday 27 August 2021	Water, Property and Housing (Pavey)
Monday 30 August 2021	Deputy Premier, Regional New South Wales, Industry and Trade (Barilaro)

5.1 Allocation of question time and total hearing time

The committee noted that under the Budget Estimates 2021-2022 resolution each portfolio, except The Legislature, will be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 12.30 pm, and from 2.00 pm to 5.45 pm, with an additional 15 minutes reserved for government questions for each of the morning and afternoon sessions.

5.2 Witness requests

Resolved, on the motion of Mr Veitch: That the committee invite the following witnesses:

Agriculture and Western New South Wales

- Mr Scott Hansen, Director General, Department of Primary Industries
- Mr Gary Barnes, Secretary, Department of Regional NSW
- Mr Darryl Quinlivan, NSW Agriculture Commissioner
- Mr David Witherdin, Chief Executive Officer, Local Land Services
- Dr John Tracey, Deputy Director General, Biosecurity and Food Safety, Department of Primary Industries
- Mr Sean Sloan, Deputy Director General, Fisheries, Department of Primary Industries
- Dr Kim Filmer, Chief Animal Welfare Officer, NSW Department of Primary Industries
- Ms Suzanne Robinson, Acting Director Animal Welfare, NSW Department of Primary Industries

Water, Property and Housing

- Mr Jim Betts, Secretary, Department of Planning, Industry and Environment
- Dr Jim Bentley, Deputy Secretary, Water, Department of Planning, Industry and Environment
- Prof Richard Bush, Crown Lands Commissioner, Department of Planning, Industry and Environment
- Mr Andrew George, Acting Chief Executive Officer, WaterNSW
- Mr Roch Cheroux, Managing Director, Sydney Water
- Mr Darren Cleary, Managing Director, Hunter Water
- Mr Grant Barnes, Chief Regulatory Officer, Natural Resources Access Regulator
- Mr Michael Wright, Group Deputy Secretary, Housing and Property, Department of Planning, Industry and Environment
- Ms Melanie Hawyes, Deputy Secretary, Crown Lands, Department of Planning, Industry and Environment
- Mr Michael Cassel, Chief Executive Officer, Land and Housing Corporation, Department of Planning, Industry and Environment

Regional New South Wales, Industry and Trade

- Mr Gary Barnes, Secretary, Department of Regional NSW
- Mr Scott Hansen, Director General, Department of Primary Industries
- Commissioner Shane Fitzsimmons, Commissioner, Resilience NSW
- Mr Anshul Chaudhary, Acting Chief Executive Officer, Forestry Corporation
- Ms Kylie Bell, Executive Director, Industry, Trade and Investment, NSW Treasury
- Ms Georgina Beattie, Deputy Secretary, Mining, Exploration and Geoscience, Department of Regional NSW
- Mr Chris Hanger, Deputy Secretary, Public Works Advisory and Regional Development Group, Department of Regional NSW.

Resolved, on the motion of Ms Hurst: That the committee not invite parliamentary secretaries to appear as a witness at the hearings.

5.3 Witness appearance time

Resolved, on the motion of Ms Hurst: That:

- the Minister appear from 9.30 am until 12.45 pm
- departmental staff appear from 9.30 am until 6.00 pm.

6. Inquiries into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 and the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021**6.1 Public submissions - Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-6.

6.2 Public submissions - Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-3, 6-9, 12-18, 20-25.

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of submission no. 26.

6.3 Name suppressed submissions - Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

Resolved, on the motion of Mr Veitch: That the committee keep the name of the author confidential, as per the request of the author in submission nos. 5, 10, 11 and 19.

6.4 Confidential submission - Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

Resolved, on the motion of Mr Veitch: That the committee keep submission no. 4 confidential, as per the request of the author as it contains identifying information.

6.5 Online questionnaire reports

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of the online questionnaire reports for the inquiries into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 and the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021.

6.6 Briefing paper - Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 Inquiry into the long term sustainability and future of the timber and forest products industry

Resolved, on the motion of Mr Poulos: That the committee keep confidential the briefing paper provided by the Parliamentary Research Service for the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021.

6.7 Transcript corrections, answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Faraway: That witnesses be requested to return transcript corrections, answers to questions on notice and supplementary questions within seven days of the date on which questions are forwarded to the witness.

Resolved, on the motion of Mr Field: That members provide any written questions for Santos and Comet Ridge to the secretariat within two working days of circulation of the 6 July hearing transcript.

6.8 Briefing on virtual hearing proceedings

The Chair briefed members on virtual hearing arrangements.

6.9 Public hearing

Resolved, on the motion of Mr Veitch: That the allocation of questions be left in the hands of the Chair.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Andrew Abbey, Policy Director, NSW Minerals Council (via videoconference).

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Susan Lyle, Chair, Caroon Coal Action Group (via videoconference)
- Mr Graeme Norman, Committee Member, Caroon Coal Action Group (via videoconference)
- Ms Georgina Woods, NSW Co-ordinator, Lock the Gate Alliance (via videoconference)
- Ms Danica Leys, Chief Executive Officer, Country Women's Association of NSW (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined.

- Dr Madeline Taylor, Senior Lecturer, School of Law, Macquarie University (via videoconference)
- Professor Tina Soliman Hunter, Professor Law, School of Law, Macquarie University (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council (via videoconference).

The evidence concluded and the witness withdrew.

The public hearing concluded at 12.21pm.

7. Inquiry into the long term sustainability and future of the timber and forest products industry

7.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos: 1-6, 8, 10, 13-15, 17-20, 22-23, 26-28, 20-21, 33, 36-37, 40-41, 43- 51, 53-54, 56-61, 63-64, 67, 68, 69, 70, 72, 74-77, 81-87, 89-90, 94-96, 98, 100-104, 106-112, 114-118, 120, 122-134, 136-137, 139, 141-142, 144-152, 156-162, 167-168, 170-173, 187- 214, 216-217 and 219-225.

7.2 Name suppressed submissions

Resolved, on the motion of Mr Veitch: That the committee keep the name of the author confidential, as per the request of the author in submission nos: 9, 11-12, 16, 21, 24, 29, 38-39, 42, 52, 62, 65-66, 71, 73, 78-80, 88, 91-93, 97, 99, 105, 113, 119, 121, 135, 138, 140, 143, 153, 155, 163-166, 169, 174-175, 176-185, 186 and 218.

7.3 Confidential submissions

Resolved, on the motion of Mr Primrose: That the committee keep submission nos. 7, 32, 34, 35, 55, 154, 165 and 215 confidential, as per the request of the author.

7.4 Pro formas

Resolved, on the motion of Mr Field: That a sample of the pro forma and its variations be published on the inquiry website noting the number of responses received and that individual pro forma responses be kept confidential.

7.5 Witness list and site visits/regional hearings

Resolved, on the motion of Mr Martin: That members agree to the proposed witness list and have until close of business Friday 9 July 2021 to make any further suggestions.

7.6 Site visits and regional hearings

Resolved, on the motion of Mr Field: That members provide suggestions on possible locations to visit and stakeholders to engage for the inquiry's site visits and regional hearings by close of business Friday 9 July 2021, and that the secretariat compile and circulate these suggestions to the committee for further discussion.

8. Adjournment

The committee adjourned at 12.42 pm.

Shaza Barbar / Joseph Cho

Committee Clerk

Draft minutes no. 42

Friday 6 August 2021

Portfolio Committee No. 4 – Industry

Via videoconference, 10.05 am

1. Members present

Mr Banasiak, *Chair*

Mr Farraway

Mr Field (substituting for Ms Hurst for the duration of the inquiry into the long term sustainability and future of the timber and forest products industry and the inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021)

Mr Martin

Mr Poulos

Mr Primrose

Mr Veitch

Ms Boyd (participating for the duration of the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021)

2. Apologies

Ms Fachrmann (substituting for Ms Hurst for the duration of the inquiry into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021)

3. Draft minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 41 be confirmed.

4. Inquiry into the long term sustainability and future of the timber and forest products industry

4.1 Revised committee activity dates

The committee noted that the hearings for the inquiry have been rescheduled due to the public health situation.

5. Inquiry into the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021

5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 7 and 8.

5.2 Consideration of Chair's draft report

The Chair submitted his draft report entitled 'Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Veitch: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, submissions, responses to the online questionnaire, summary report of the online questionnaire and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;
- d) Upon tabling, all unpublished transcripts of evidence, submissions and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) The report to be tabled on Thursday 12 August 2021.

6. Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

6.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 27 and 28.

6.2 Answers to questions on notice

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution establishing the inquiry:

- answers to questions on notice from Cr Kiwa Fisher, Deputy Mayor, Upper Hunter Shire Council, received 21 July 2021
- answers to questions on notice from Ms Georgina Woods, NSW Co-ordinator, Lock the Gate Alliance, received 22 July 2021.

6.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled 'Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Field: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, submissions, answers to questions on notice, responses to the online questionnaire, summary report of the online questionnaire and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;
- d) Upon tabling, all unpublished transcripts of evidence, submissions, answers to questions on notice and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) The report to be tabled on Thursday 12 August 2021.

7. Adjournment

The committee adjourned at 10.08 pm, *sine die*.

Joseph Cho / Shaza Barbar
Committee Clerk

